

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

EDWARD THOMAS KENNEDY

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VS.

CIVIL ACTION NO.4:19-CV-593-A

REED CHARLES O'CONNOR, Et Al.

ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS AND,  
DIRECTING PLAINTIFF TO PAY FULL FILING AND ADMINISTRATIVE FEES

This civil action was initiated by the filing of a civil complaint by pro se plaintiff Edward Thomas Kennedy. Although the case was initially filed in the Amarillo Division, by order entered August 1, 2019, the case was transferred to this the Fort Worth Division and assigned to the "A" docket. (Doc. 7).

Kennedy has also filed a long form motion/application to proceed in forma pauperis. (Doc. 4). The motion/application includes the income and asset information for plaintiff Kennedy. A review of the financial information submitted in the long-form application/motion reflects that plaintiff Kennedy presently receives \$1,400 a month in monthly social security payments. Courts consider social security payments in making the in-forma-pauperis determination.<sup>1</sup> Kennedy lists no dependents. The applicable poverty guideline for a family of one is \$12,140. At an income of \$1,400 a month, Plaintiff's total annual household income of \$16,800 is several

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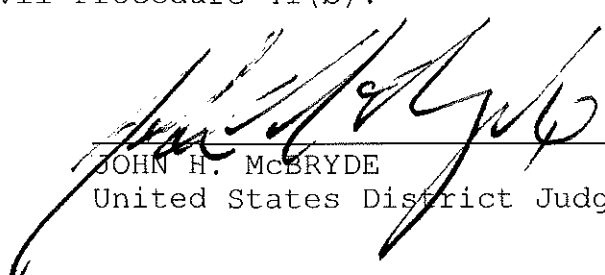
<sup>1</sup>See, e.g., *Lewis v. Center Market, et al.*, 378 F. App'x. 780, 784-85 (10th Cir. May 17, 2010) (affirming district court's denial of IFP status to appellant whose only income sources were social security and unemployment benefits); *Salter v. Johnson*, No.3:12-CV-738-HTW, 2013 WL 550654, \*1 (S.D. Miss. Jan. 18, 2013) (income includes social security payments), *rec. adopted*, 2013 WL 55065 (Feb. 12, 2013); *Mitchell v. Champs Sports*, 42 F.Supp. 2d 642, 648 (E.D. Tex. Dec. 15, 1998).

thousand dollars above the poverty level for a family of one.<sup>2</sup> The information in this application thus shows that Plaintiff has sufficient resources available to pay the applicable fees. After review and consideration of the motion/application to proceed in forma pauperis, the Court finds that it should be denied. Therefore,

The court ORDERS that the motion/application to proceed in forma pauperis [docket no. 4] be, and is hereby, DENIED.

It is further ORDERED that if Plaintiff wishes to proceed with this action, he must pay to the clerk of Court the filing and administrative fees of \$400.00<sup>3</sup> within seven (7) days of the date of this order. Plaintiff is advised that failure to timely pay the full filing and administrative fees to the clerk of Court could result in the dismissal of this action without further notice pursuant to Federal Rule of Civil Procedure 41(b).

SIGNED August 2, 2019.



JOHN H. MCBRYDE  
United States District Judge

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<sup>2</sup>The undersigned notes that Kennedy previously sought to proceed in-forma-pauperis in this division in case numbers 4:19-CV-124-O and 4:19-CV-144-Y, and his motions were denied in those proceedings. See *Kennedy v. United States, Et Al.*, No.4:19-CV-144-Y(N.D. Tex. July 25, 2019 Order Adopting Finding, Conclusions and Recommendation); *Kennedy v. United States, Et Al.*, No.19-CV-124-O (N.D. Tex. May 6, 2019 Order dismissing case after Kennedy failed to pay full fees).

<sup>3</sup>In addition to the filing fee of \$350, the District Court Miscellaneous Fee Schedule, effective May 1, 2013, requires payment of an administrative fee for filing a civil action in district court of \$50. See 28 U.S.C. § 1914(a) and District Court Miscellaneous Fee Schedule, note 14.